

1
2
3
4
5
6
7
8 **UNITED STATES DISTRICT COURT**
9 **EASTERN DISTRICT OF CALIFORNIA**
10

11 MELVIN JOSEPH SIMMONS,) Case No.: 1:23-cv-00793 JLT EPG (PC)
12 Plaintiff,)
13 v.) ORDER ADOPTING FINDINGS AND
14 BRIAN CATES, et al.,) RECOMMENDATIONS IN FULL, DENYING
15 Defendants.) PLAINTIFF’S APPLICATION TO PROCEED
16) *IN FORMA PAUPERIS*, AND DIRECTING
) PLAINTIFF TO PAY THE FILING FEE
) (Doc. 6)
)

17 Melvin Simmons is a state prisoner proceeding *pro se* in this action. On May 26, 2023, the
18 magistrate judge found Plaintiff was subject to the three-strikes bar imposed by 28 U.S.C. § 1915(g).
19 (Doc. 6 at 2.) The magistrate judge also found the allegations in the complaint—which concern the
20 infringement of intellectual property rights—do not satisfy the “imminent danger of serious physical
21 injury” exception to § 1915(g). (*Id.* at 3-4.) Therefore, the magistrate judge recommended that
22 Plaintiff not be permitted to proceed *in forma pauperis*.

23 Plaintiff filed objections to the Findings and Recommendations on June 20, 2023. (Doc. 7.)
24 However, Plaintiff does not dispute the finding that he was subject to the three strikes bar.
25 Furthermore, Plaintiff does not demonstrate that he is in imminent danger of serious physical injury.

26 Pursuant to 28 U.S.C. § 636(b)(1)(C), this Court conducted a *de novo* review of this case.
27 Having carefully reviewed the matter, including Plaintiff’s objections, the Court concludes the Findings
28 and Recommendations are supported by the record and proper analysis. Thus, the Court **ORDERS:**

- 1 1. The Findings and Recommendations issued on May 26, 2023 (Doc. 6) are **ADOPTED**
- 2 in full.
- 3 2. Plaintiff's is not permitted to proceed *in forma pauperis* in this case.
- 4 3. Plaintiff **SHALL** pay the \$402 filing fee within 30 days of service of this order.
- 5 4. Plaintiff is advised that failure to pay the required filing fee as ordered will result in the
- 6 dismissal of this action without prejudice.

7

8 IT IS SO ORDERED.

9 Dated: **June 27, 2023**


UNITED STATES DISTRICT JUDGE